

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

THERESA WILKINS, Appellant,	)	No. ED92092
	)	Appeal from the Circuit Court of
vs.	)	St. Louis County
	)	
JAMES K. WILKINS, Respondent.	)	Filed: December 22, 2009

### OPINION SUMMARY

Theresa Wilkins (“Mother”) appeals the judgment of the Circuit Court of St. Louis County emancipating Jimmy Wilkins (“Child”) and awarding James Wilkins (“Father”) \$9,676 in overpaid child support. Specifically, Mother asserts that the motion court erred in ruling: (1) that Father’s duty to pay child support for Child terminated on November 30, 2006, and (2) that Father was entitled to a reimbursement for child support voluntarily paid by him.

REVERSED and REMANDED.

Division Two Holds: The motion court erred in finding that Father’s duty to pay child support terminated on November 30, 2006, because: (1) Child continuously attended a post-secondary institution as required by § 452.340.5 after November 30, 2006, and (2) Child nevertheless qualifies for a waiver of the continuous attendance requirement due to manifest circumstances. Secondly, the motion court erred in finding that Father was entitled to reimbursement of voluntarily paid child support because: (1) Child’s failure to comply with reporting requirements of § 452.340.5 does not entitle Father to reimbursement of child support monies paid and (2) Father failed to overcome the presumption that his child support payments during the relevant time were voluntary.

Opinion by: Patricia L. Cohen, J.      Sherri B. Sullivan, P.J., and Robert G. Dowd, Jr., concur.

Attorney for Appellant:      Mary Ann Weems

Attorney for Respondent:      Mary E. Davidson

<p><b>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</b></p>
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